



ADR NEWSLETTER

Office of the General Counsel

April 2006

Dispute Resolution Division

1st NCE Course Offering

The first Negotiation Center of Excellence (NCE) course offering took place 5-7 April, 2006 at the Air War College. This course was presented as an executive seminar to approximately 30 current AWC students, and focused on three key components: interest-based negotiation, cross-cultural communication, and multi-party negotiation. Mr. Ken Lechter, NCE program manager for SAF/GCD, organized and moderated the seminar. The session opened with Ms. Linda Myers from SAF/GCD and Col Stef Eisen, Dean of Academic Affairs of the AWC, discussing the basics of interest-based negotiation. On the second day, Dean Nancy Rogers of the Ohio State University law school addressed the students and discussed the research being done at the law school on cutting edge cross-cultural and multi-party negotiations. The research will generate a treatise that will act as a resource for the NCE. Dean Rogers was followed by Dr. Gary Weaver from American University, who led an interactive cultural awareness seminar.

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R. Philip Deavel,
Deputy General Counsel
for Dispute Resolution

Welcome Phil Deavel!

I was deeply honored to have been selected as the Air Force's Deputy General Counsel for Dispute Resolution. Let me begin by recognizing the gentleman who built this division from the ground up, Mr. Joe McDade. I first had the privilege of working with Joe in 1994 when I was the Director of Civil Law at the Air Force JAG School. We collaborated, with him building the overarching policy framework for ADR in the Air Force while I crafted the first ADR lectures for legal practitioners into the civil law curricula of the JAG School. Joe's vitality and creativity were apparent then and are widely respected now. I pledge to you that I will devote my energy and enthusiasm to continue and expand his superlative efforts on behalf of the effective use of ADR. The mission of SAF/GCD is one that I believe in and will work to promote. I am fortunate to have had an eclectic career, serving as an Air Force judge advocate for 22 years, including tours in the Litigation Division and at the Air Force Personnel Center. After retiring from JAG, I began my civilian career as a labor and employment law attorney for the Department of Defense Education Activity, which operates a global system of schools serving the children of military members. I was delighted to return to the Air Force in 2003 when I was selected to join the National Security & Military Affairs Division of the Air Force General Counsel. I have immense respect for the Air Force, the Department of Defense and their employees. In each phase of my career, beginning as the negotiator for management at Wurtsmith Air Force Base in 1980, and at numerous subsequent assignments around the world over the last 26 years, I have witnessed the fruits of ADR when it is effectively utilized. Thank you for your hard work and dedication to the Air Force and dispute resolution. I look forward to working with you all in the future.

ADR 2005 Snapshot

This past year has seen remarkable achievements in ADR across the Air Force. Once again the Air Force ADR program has established itself as a true leader in a field that is receiving increasingly more recognition as an important method of solving disputes outside of the traditional process. As the National Security Personnel System begins its implementation phase, effective communication and negotiation skills will be key to success, highlighting yet another important forum for the use of ADR methods and practices. A big thanks goes out to everyone in the field for their hard work in 2005! Keep up the good work and remember we are here to support you!

Mediator Certification

To improve the quality of Air Force collateral duty mediators, and to ensure a mediator corps with a sufficient mix of skills, knowledge, and experience to effectively mediate any Air Force workplace dispute regardless of complexity or visibility, SAF/GCD launched a voluntary, four-level certification program in 2005. The four levels of proficiency range from basic, for new mediators just coming off their basic course and initial on-the-job training; to intermediate, for journeymen mediators; to advanced, for highly skilled and experienced mediators; to master, for those who have demonstrated the ability to mediate any dispute with skill and aplomb. Thus far, several Air Force mediators have applied for certification, from the first level to the highest. Although certification is voluntary, within a year of implementation SAF/GCD will restrict travel and instructional activities using ADR Program funds to those mediators who have achieved Level 2 (intermediate) certification or higher.

NSPS Update

Spiral 1.2 of the “Interactive Supervisory Skills” Course is completed with over 12,000 individuals trained. By the completion of Spiral 1.3, close to 35,000 supervisors will have received training. Additionally, Spiral 1.1 for performance management and the requisite “nuts and bolts” training have also been initiated. The revised regulations for the performance management system are now available can be found at <http://www.cpms.osd.mil/nsps/>.

Integrated Conflict Management System

SAF/GCD, at the request of Lt Gen Roger Brady, pioneered the development of the ICMS, which leverages the crosscutting application of dispute resolution and conflict management skills to 1) more effectively prevent, and 2) more effectively resolve, Air Force disputes. In conjunction with this initiative, we launched an integrated training effort to prepare Air Force supervisors to effectively deal with workplace conflicts that will arise from the implementation of the National Security Personnel System (NSPS). The training has received positive feedback for both its content and perceived impact on supervisor job effectiveness. Currently we have trained 17,000 supervisors at more than 35 bases and plan to eventually train 35,000 by the end of Spiral 1.3.

Web-based Data Collection Tool

Data collection and reporting for FY 05 was entirely web-based, using a proprietary, password-protected reporting tool developed for GCD for this purpose. All data submitted by reporting activities is saved to a secure web server and immediately available to parent MAJCOMs and SAF/GCD. The reporting tool worked well in its initial deployment, and feedback from the bases on ease of use has been overwhelmingly positive. For the FY 06 report and beyond, GCD is making the tool dynamic to allow bases to periodically report cumulative data during the reporting year, allowing data to be tracked real-time, and further minimizing the administrative burden associated with large end-of-year reports. Deployment of an operational version of the dynamic online reporting tool is expected in mid-June 2006.

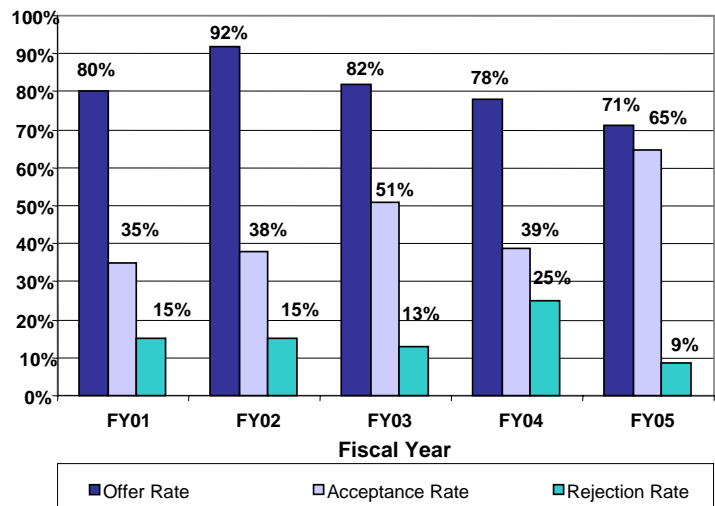
ADR 2005 Snapshot

Acquisition Disputes

Reversing a four-year trend, in FY 05 the Air Force saw an up-tick in contractor claims docketed at the Armed Services Board of Contract Appeals (ASBCA). While active cases at the ASBCA that were not in awaiting-decision status declined by 44% from FY 01-FY 04, at the end of FY 05, the number increased from 59 to 80, an increase of 36%. (Of these, however, only seven were in excess of \$1 million.) In response to this new trend, the Air Force continued to make progress in the area of acquisition disputes. In FY 05, the Air Force offered ADR in 71% of the docketed cases eligible for ADR in FY 05. Once ADR is offered, it is significant that more contractors agree to use ADR than reject ADR, and, as it is reflected in the table (right), this percentage increased markedly in FY 05.

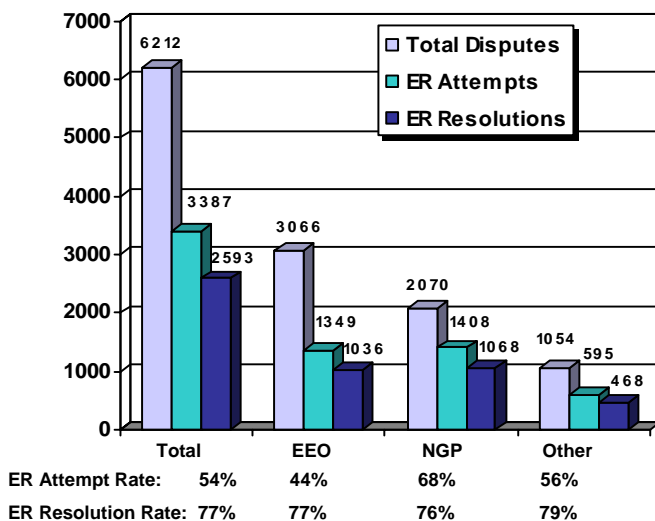
These statistics reflect that ADR continues to be the Air Force default position. Furthermore, overall ADR resolutions of disputes increased slightly in FY 05.

Air Force Acquisition ADR Offer, Acceptance & Rejection Rates



Workplace Disputes

Air Force Early Resolution Attempt and Resolution Rates in Workplace Disputes



In FY 05 the Air Force Workplace ADR Program continued to produce positive trends in early dispute resolution efforts, particularly in those dispute categories that make up the largest percentage of Air Force workplace disputes. ADR and other Early Resolution efforts were frequently used in EEO complaints and negotiated grievances (NGPs), which collectively accounted for 83% of all workplace disputes in FY 05, and were highly effective in resolving the dispute. As shown in the chart to the left, Early Resolution was attempted in 44% of EEO cases and 68% of NGPs, resolving 77% and 76% of these disputes, respectively. Early Resolution techniques were used in 56% of all other disputes, resolving 79% of them. Altogether, the Air Force resolved 2,593, or 42%, of all workplace disputes through an early resolution process.

MEO Mediator Achieves 'CORE' Success

As the AF moves into the 21st Century, manpower reductions, resource constraints, and downsizing are challenging traditional notions of what the American military establishment looks like. For MEO and EEO, the lines of distinction between the "military" and "civilian" may begin to blur as we strive to form a "total force" approach to providing EO services. The following story highlights the work of one MEO technician who has proven how collaboration between MEO and EEO can provide win-win solutions and opportunities for the MEO, EEO, and the ADR programs.

By Airman Eric Schloeffel
347th Rescue Wing Public Affairs

MOODY AIR FORCE BASE, Ga. - Sometimes career-building skills are taught while performing seemingly unrelated jobs.

Tech. Sgt. William Crews learned his knack for conflict resolution during his early Air Force years as an air transportation specialist.

These early experiences helped Sergeant Crews gain later success as a Military Equal Opportunity mediator and become one of only 35 Air Force mediators to participate in the new Compressed Orderly Rapid Equitable process.

"My responsibilities (as a air transportation specialist) were to ensure contractors adhered to their contract with the government," said Sergeant Crews, a Valdosta native who was born on Moody. "I had to deal with disgruntled travelers. When passengers are about to be absent without leave and you have no more seats available on the plane, you have to develop the ability to resolve conflict."

Little did he know, resolving those conflicts would later assist in the success he's enjoyed as a MEO mediator. With this success came the opportunity to work on the new CORE program.

"The CORE process is a new two-year pilot program that streamlines the equal opportunity process for handling civilian employment discrimination," said Sergeant Crews. "Hopefully, the process will resolve complaints more rapidly by using Alternate Dispute Resolution."

ADR is part of the CORE process and entails techniques like mediation to reach mutual agreements between sides.

Sergeant Crews mediated during the first implementation of the CORE process Dec. 21-23 at Tinker Air Force Base, Okla. The case dealt with a civilian filing a discrimination case against the Air Force. His role in the case was to mediate talks between both sides and encourage

communication so a resolution or agreement could be achieved.

"(As a mediator) you're kind of like a traffic cop," said Sergeant Crews. "You moderate the exchange between the individuals, and make each individual think of the situation in a different aspect. Most of all you really have to remain neutral."

His laid-back attitude gives the impression of a good listener, but the degrees and certificates lining the walls of his office hold proof he is experienced and knowledgeable in his career field.

"Sergeant Crews has the skills of mediation down to an art form," said MEO advisor Tech. Sgt. Joseph Newton. "He's spent his own money and time to attend several training workshops and then turns around and offers an accredited course to the Moody populace at no expense."

His accolades also helped him land his spot as a CORE mediator, he said.

"I recently earned my master's degree in human resources from Webster University," said Sergeant Crews. "I was chosen for the select few spots because of experience, education and the number of hours I've committed to mediation."

After his military career, Sergeant Crews plans to take his experience as a mediator to the civilian side.

"I think I would like to (try) divorce mediation," said Sergeant Crews. "If I have the ability to make the (divorce) transition smoother then that will be great."

Sergeant Crews considers his profession important to the Air Force mission and enjoys the opportunity to work on CORE cases.

"I'm ecstatic I was selected for the CORE program," he said. "(I enjoy) the MEO career field because it allows me to help individuals resolve issues that may be hampering the mission. I'm excited because I can continue to practice skills and techniques to become a better mediator."

For more information on volunteering to be a CORE mediator or about other opportunities to work with the Air Force ADR Program, please contact Monique Eisenhardt at monique.eisenhardt2@pentagon.af.mil, or by phone at (703) 588-2204, DSN 425-2204, or Ashley Damron at ashley.damron@pentagon.af.mil, or by phone at (703) 588-2202, DSN 425-2202.

Mediator's Corner

Marv the Mediator answers your questions about mediation practice in Air Force workplace disputes.

Dear Marv,

I have an upcoming mediation of a workplace dispute. Both parties seem to want to mediate, but the employee has told me she'll withdraw if her first-line supervisor is present because she says he intimidates her. Management insists that the supervisor be there because he knows the facts. I would hate to see this case dissolve over who sits at the table, but we seem to be at impasse before we even get started. What should I do? - Caught in the Middle

Dear Caught,

The tension you describe is not uncommon in mediation. Since you can't force management to give up its right to choose its representative, your best bet is to persuade the employee that facing her supervisor in the controlled environment that mediation offers, with the mediator serving as a "buffer," is the best way to overcome her fear of intimidation. Similarly, the supervisor needs to be made aware that mediation does promote candor, even venting, without recrimination, so he knows what to expect. If the supervisor doesn't have full settlement authority, it is possible another management official will attend, thus providing a further buffer. At all times the mediator maintains control of the process (though not its outcome). If you can't convince the employee to meet under these conditions, there is another option to consider: the caucus mediation. As the name implies, this is a mediation conducted entirely through alternating caucuses with each party separately—no joint discussions. It's kind of like "shuttle diplomacy." While promising no direct face-to-face contact may get the parties to the table (figuratively, anyway), it requires a very skilled mediator to pull it off effectively, since the mediator becomes the sole conduit of information between the parties. It places a premium on active listening and effective communication skills to ensure that the information the mediator conveys to each party is accurate, to avoid misunderstandings if agreement is reached. It also requires a deep appreciation of confidentiality, since the mediator can divulge only what each party expressly authorizes to be divulged to the other. Before considering caucus mediation, my advice is to try to convince the parties that face-to-face communication is the most effective way to reach a meaningful and lasting resolution to their dispute. - Marv

First NCE Course Offering

(Continued from page 1)

On the third day, Ms. Cherie Shanteau from the U.S. Institute for Environmental Conflict Resolution Group, taught multi-party negotiation of international conflict, employing a simulation developed by Ms. Nicola Gurwith from SAF/GCD.

The course was an immense success and additional executive seminars have been scheduled for June and September. The NCE is also housing several other initiatives currently underway including the Negotiation and Appropriate Dispute Resolution Course (NADRC) to take place at the Air Force JAG School 22-26 May, as well as ongoing collaborations with the National Defense University and other academic partners. Thanks to everyone for their hard work, and especially to Col Eisen and his staff at the Air War College!

Upcoming Training Dates

April:

Advanced Mediation Course,

24-28 April 2006, Air Force HR Management School, Maxwell AFB AL

May:

Negotiation and ADR Course for Attorneys, 22-26 May 2006, AF JAG School, Maxwell AFB AL

Basic Mediation Course,

23-26 May, 2006, Maxwell AFB AL

July:

USAFE Basic Mediation Course,

18-21 July, 2006, Ramstein AFB



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